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CONTENT

Bill for Introduction into the County Assembly of Meru—

PAGE

The Meru County Revenue Regulation and Control Bill, 2019 31

**THE MERU COUNTY REVENUE REGULATION AND CONTROL
BILL, 2019**

ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

- 1—Short title.
- 2—Interpretation.
- 3—Object and purpose of the Act.
- 4—Application of the other Laws.

PART II—ADMINISTRATION

- 5—Administration of the Act.
- 6—Delegation of functions and powers.
- 7—Agreement in relation to revenue collection.
- 8—Annual report.
- 9—Revenue payers' obligations.
- 10—Providing information.
- 11—Access, inspection and other powers.

**PART III—PROVISIONS RELATING TO TRADE LICENSING
(SINGLE BUSINESS PERMIT)**

- 12—Appointment of Chief Licensing Officer.
- 13—Requirements for a trade license.
- 14—Application for license.
- 15—Grant of license.
- 16—Renewal of licenses.
- 17—Revocation or suspension of trade license.
- 18—Surrender of license.
- 19—Transfer or assignment of license.
- 20—Appeal.
- 21—Powers of authorized officers.
- 22—Register of trade licenses.
- 23—Offence of false or misleading information.

24—License fees and additional fees.

**PART IV—PROVISIONS RELATING TO DESIGNATED
PARKING AREAS**

25—Designation of parking spaces.

26—Requirements for parking and parking permits.

27—Parking charges.

28—Authorized persons.

29—Charges for clamping.

30—Display of parking permit.

31—Free parking.

32—Identification of officers.

33—Multiple parking.

34—Commercial private parking permit.

35—Offences.

36—Obstruction.

37—Parking on pavements.

**PART V—PROVISIONS RELATING TO OUTDOOR
ADVERTISING**

38—Board may enter agreements.

39—Application and revocation of permit.

40—Outdoor advertising fee.

41—Expiration of permit.

42—Cancellation of permit.

43—Producing of permit on request.

44—Removal of advertisement.

45—Limitation of this Act.

46—Offences.

**PART VI—PROVISIONS RELATING TO MINING AND
AGRICULTURAL CESS**

47—Tax Chargeable for agricultural produce.

48—Declaration of essential produce and development of certain produce.

- 49—Mining and agricultural cess.
- 50—Payment to the County Government by agricultural producers.
- 51—Payment to the County Government on agricultural produce on transit.
- 52—Agreement in relation to revenue collection.

- 53—General penalty for offences committed by agricultural producers.

PART VII—PROVISIONS RELATING TO TAX WAIVERS

- 54—Tax incentives and reliefs.
- 55—Authority to waive tax and administration of tax waivers.
- 56—Waiver of taxes.
- 57—Tax waivers administration.
- 58—Waivers to be published.
- 59—Report of waivers.
- 60—Records of waivers.

PART VIII—PROVISIONS RELATING TO TRADE AND MARKETS

- 61—Establishment and control of public markets.
- 62—Inspection and search.
- 63—Confidential information.
- 64—Licenses of appointed places.
- 65—Stallage and charges.
- 66—License for commercial activities.
- 67—Street hawkers.
- 68—Buskers.
- 69—Disorder in the market.
- 70—Eviction from public market.
- 71—Prohibited goods.
- 72—Prescribed goods.
- 73—Access to prescribed goods.
- 74—Seizure and removal of prescribed goods.
- 75—Sale of meat.

76—Sale of marketable commodities and other goods.

77—Exceptions.

78—Issuance of permits.

79—Inspection by county health officers.

80—Renting of stalls for sale of meat.

81—Offences related to public markets.

PART IX—PROVISIONS RELATING TO PUBLIC NUISANCE

82—Powers of the Executive Committee Member relating to public nuisances.

83—Responsibilities of the Board to control public nuisances.

84—Public nuisances.

85—General roads and streets nuisances.

86—Source of danger on roads and streets.

87—Carriage of food.

88—Personal cleanliness

89—General public health nuisances.

90—Parasites deemed public nuisance.

91—Protected areas.

92—Licenses and permits application.

93—Revocation or suspension of a license.

94—Period and renewal of licences.

95—Permitted operations.

96—Board to order inspection.

97—Derelict buildings.

PART X—ENFORCEMENT

98—Authorized officers.

99—Places authorized officers may enter.

100—Powers of officers.

101—Use of records.

102—Entry of dwelling place.

103—Court to issue warrant.

- 104— Use of force.
- 105— Inspection report.
- 106— Offences by an Authorized Officer.
- 107— Assistance of officers.
- 108— Obstruction.
- 109— Seizure.
- 110— Order for restoration.
- 111— Nature of offences.
- 112— Offences by partnership or bodies corporate
- 113— Nature of evidence in proceedings.

PART XI—MISCELLANEOUS PROVISIONS

- 114— Personal liability.
- 115— Prosecution of Matters under this Act.
- 116— General penalty.
- 117— Offences by authorized officer.
- 118— Savings.
- 119— Approved forms.
- 120— Regulations.
- 121— Revision.

SCHEDULES

FIRST SCHEDULE

- (a) Part i— Approved forms.
- (b) Part ii— Powers of authorized officers.

SECOND SCHEDULE—scheduled produce.

THIRD SCHEDULE

- (a) Part i
- (b) Part ii— Prohibited goods and prescribed goods

**THE MERU COUNTY REVENUE REGULATION AND CONTROL
BILL 2019****A Bill for**

AN ACT of the County Assembly of Meru to give effect to the Fourth Schedule of the Constitution, to provide for the general administration, collection of certain levies and fees, enforcement of the laws relating to revenue, and for matters connected therewith and incidental thereto

ENACTED by the County Assembly of Meru as follows—

PART I—PRELIMINARY**Short title**

1. This Act may be cited as the Meru County Revenue Regulation and Control Act, 2019 and shall come into operation upon publication in the gazette.

Interpretation

2. In this Act, unless the context otherwise requires—

“advertisement” includes any notice, billboard, poster, picture or any other printed or written advertisement matter;

“advertising device” includes any board, framework, screen, signboard, flag, banner, or lamp or neon signs or any other fixture or device used or constructed for the purpose of advertisements;

“agricultural produce” means any agricultural crop or animal produce;

“agricultural producer” means a producer of agricultural produce and includes any marketing organization acting on behalf of producers;

“agricultural produce trader” means a trader dealing with agricultural produce;

“authorized officer” means any person prescribed and/or authorized in writing by the Board or Executive Committee Member, to act in a certain capacity as envisaged under this Act;

“approved form” means a form set out in the First Schedule;

“Board” means Meru County Revenue Board;

“business” includes a profession, trade or occupation, other than a prescribed business;

“butcher’s meat” includes beef, mutton, veal, lamb, kid or the meat of any other animal slaughtered for the purpose of sale;

“busker” means any person who performs the activity of busking;

“busking” includes any activity of sounding or playing a musical instrument, singing, reciting or performing conjuring, juggling, puppetry, miming, dancing or other entertainment or doing any of those things concurrently;

“casual trader” means a person who attends a particular market with their goods, in the hope that they may be allocated a trading position for that day only, from the vacant positions in the market;

“charge” means money payable to the county government and includes fees;

“Chief Licensing Officer” means the chief licensing officer appointed under section 13;

“Chief Officer” means the chief officer in charge of Finance;

“clamp” means a metallic instrument used to lock wheels of a vehicle;

“Company” means the body corporate registered under the Companies Act, Chapter 486 of the Laws of Kenya;

“County Government” means the County Government of Meru;

“County Government motor vehicle” means a vehicle owned or operated by County Government of Meru;

“County Public Officer” has the same meaning as in the County Governments Act, 2012;

“County Treasury” means the entity in Meru County Government established under Section 103 of the Public Finance Management Act;

“Defective goods” include goods that—

(a) are in the particular circumstances, unfit for use or are dangerous;
or

(b) do not comply with a product safety or quality standard;

“essential produce” means produce declared as such under Section 5;

“Executive Committee Member” means the County Executive Committee Member for the time being responsible for finance;

“factory” means a building or groups of buildings where produce is processed chiefly by machines within the County and owned by a registered company whether or not registered under the Companies Act, Cap. 486, Laws of Kenya;

“Foreign Limited Partnership” means a partnership—

- (a) constituted under the law of a country other than Kenya; and
- (b) in which one or more of the partners has limited liability in respect of a partnership obligation;

“license fee” means the fee payable for the grant or renewal of a trade license;

“Limited Partnership” means a partnership with one or more limited partners, each of whom has limited liability;

“Local Agricultural Producer” means an inhabitant of the County who cultivates or operates land for the purposes of growing and generating agricultural produce, whether in small scale or large scale;

“marketable commodities ” includes poultry, eggs, fresh meat, fish, ground provisions, vegetables and fruit;

“market operator” means a person who leases, rents or otherwise provides a selling space or facility to a person for the purpose of conducting sales of goods at a commercial market;

“meat” refers to permitted meat and includes fresh meat;

“Multinational Agricultural Producer” means an international juristic person that owns land within the County and cultivates it for the purpose of growing and generating agricultural produce;

“open food” means food not contained in a container of such materials and so closed as to exclude all risks of contamination;

“Owner” means the person in whose name a vehicle is registered under Part II of the Traffic Act, and in relation to a vehicle which is a subject of a hire purchase agreement or hiring agreement, includes the person in possession of the vehicle under that agreement;

“parking permit” means a permit issued by the Executive Committee Member authorizing the owner of a vehicle to use a designated parking place;

“parking space” means a space in a parking place, which is provided for parking of a single vehicle;

“partnerships” means the relationship which exists between persons who carry on business in common with a view to making a profit;

“perishable goods” refers to food products that must be used within a short period of time that are subject to decay or spoilage;

“Permits” means a permit issued under the provisions of this Act;

“poultry” includes fowls, turkeys, geese and ducks;

“prescribed” means prescribed by the rules made under this Act;

“Produce Cess” means all agricultural produce taxes and/or levies imposed under this Act and payable to the County Treasury;

“protected area” means an area declared by the County Government of Meru to be a protected area for grazing of animals;

“public market” means a public market established under this Act;

“public place” means any square, building, park recreation ground or open space which—

(a) is vested in the County Government of Meru;

(b) the public has the right to use; or

(c) is shown as a public place on the general plan of County Government of Meru in the lands registry, and it includes a workplace and a public conveyance;

“public street” means a street maintainable by the County Government;

“regular trader” means a trader who has been permitted to use a particular trading position on a particular day at a particular market site;

“revenue payer” means a person indebted to pay rates, taxes, fees or charges to the county government under a revenue law;

“Scheduled produce” means any produce for the time being specified in the First Schedule;

“slaughter-house” means any premises used in connection with the slaughtering of animals whose meat is intended for human consumption;

“stall” means any fixed or mobile structure established by the County Government and used for the purpose of trading;

“street” includes any land reserved for a street and any open space to which the public has access;

“structure” includes a machine, pump, post or other object capable of causing an obstruction to a passenger or a vehicle on a street;

“trade” means carrying on the business of selling goods or services;

“trade license”, in relation to a business, means a license granted under this Act to conduct the business;

“tax” includes any revenue or licensing fee payable by any person to the County Government;

“tax waiver” includes the forbearance of tax collection, partial or full remission, spreading out a payment in respect of tax already accrued and any variation of the amount due or interest or penalty due on any amount owing to the County Government; and

“vehicle” includes any motor vehicle, motorcycle, taxi-cab, tractor, wagon and handcart;

Object and purpose of the Act

3. The objectives of this Act are to enhance revenue administration and collection in the county by providing for the establishment of a legal and institutional framework for revenue administration in order to ensure effectiveness, efficiency and transparency in revenue regulation and control.

Application of other laws

4. The provisions of this Act shall be read with any applicable provisions of other Acts providing for annual County Finances, Act imposing an entertainment tax, other taxes payable to the county, any Act providing payment of fees or charges to the county for services provided and any other applicable laws.

PART II—ADMINISTRATION

Administration of the Act

5. (1) This Act shall be administered by the Board as shall be directed by the Executive Committee Member.

(2) It shall be the duty of the Board to—

- (a) administer the laws relating to revenue administration and collection of County revenue;
- (b) collect all county taxes, fees and charges;
- (c) direct, organize and control all county tax revenue collection activities;
- (d) formulate the county policy and legislation on revenue administration;
- (e) subject to relevant legislation, receive any grant or donation;
- (f) issue, suspend or revoke licenses and permits;
- (g) impose fines for breach of any conditions imposed in any license or permit issued under this Act;
- (h) charge fees for any services the county may render under this Act;

- (i) declare any area to be a protected area;
- (j) monitor the abatement and deterrence of nuisance within the county; and
- (k) perform any other function as may be directed by the Executive Committee Member for the effective implementation of this Act.

Delegation of functions and powers

6. (1) The Board may, by an instrument in writing and as authorized by the Executive Committee Member, delegate all or any of its functions or powers under this Act or any revenue law to an authorized officer.

(2) In performing any function or exercising any power, an authorized officer must produce written identification establishing their position as the County Board's delegate if requested by any person.

(3) The Executive Committee Member may appoint persons as authorized officers for the purposes of this Act.

Agreement in relation to revenue collection

7. The Board may enter into an agreement authorizing a person to collect rates, taxes, fees and charges payable under revenue laws on such terms and conditions as are specified in the agreement.

Annual report

8. (1) The Board shall, within three months of the end of each financial year, prepare and submit to the Executive Committee Member a report of the operations of the Board for the immediate preceding year.

(2) The Executive Committee Member shall, within fourteen days of receiving the annual report submit it to the County Executive Committee and thereafter within twenty one days transmit it to the Clerk of the County Assembly for tabling before the County Assembly for consideration.

Revenue payers' obligations

9. (1) A revenue payer must make and keep such records as Payment Receipts, Licences, Invoices, Bonds and Demand Notices under a revenue law for a period of at least two years after the completion of the financial year to which they relate.

(2) The Board may, by notice in writing, give to a revenue payer and direct the revenue payer as to the records the revenue payer is required to make and keep.

(3) If a revenue payer fails to comply with subsection (1) or a notice under subsection (2), the revenue payer is guilty of an offence and on

conviction to a fine not exceeding, in the case of an individual, fifty thousand shillings; and in the case of a company two hundred thousand shillings or imprisonment for a term not exceeding twelve months or both.

Providing information

10. (1) For the purposes of determining the liability of a revenue payer to pay a rate, tax, fee or charge under a revenue law, the Board may, by notice in writing, given to a revenue payer require the revenue payer to—

- (a) provide the Board with such information as the Board requires; and
- (b) attend and give evidence before the Board.

(2) Any person who fails to comply with a notice under subsection (1), is guilty of an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months or both.

Access, inspection and other powers

11. (1) For the purpose of determining the liability of a revenue payer to pay a rate, tax, fee or charge payable under a revenue law, the Board has full and free access to any premises of, or in the custody or control of, a revenue payer and may, at all reasonable times exercise the following powers—

- (a) enter and inspect those premises and any goods in the premises, including opening any packaging or containers that may contain goods;
- (b) take copies of any books, accounts, records and other documents in the premises and retain all copies taken.

(2) If the Board is of the view that it is impractical to exercise any of the powers under paragraph (1) (a), or (b), the Board may remove the items referred and transfer them to their offices for such time as is reasonably necessary to determine a revenue payer's liability to pay.

(3) A revenue payer must give all reasonable assistance to the Board so as to allow them to exercise their powers under this section.

(4) Any person who—

- (a) fails or refuses to provide access to premises required by the Board; or
- (b) obstructs or hinders the Board in the discharge of its duties under paragraph (1) (a), or (b) ; the person is guilty of an offence and is

liable on conviction to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months or both..

(5) The Board may take into its possession any property that may be required as evidence in court proceedings under this Act or any other revenue law.

(6) When property is no longer required under subsection (5), the property must be returned as soon as possible to the person entitled to it or dispose of the same as directed by the court.

PART III—PROVISIONS RELATING TO TRADE LICENSING (SINGLE BUSINESS PERMIT)

Appointment of Chief Licensing Officer

12. (1) The Board shall designate an officer of the County Government as the Chief Licensing Officer.

(2) The Chief Licensing Officer shall have the functions and powers provided for by or under this Act.

(3) The Chief Licensing Officer shall approve the forms for the purposes of this Act, and amend the forms in the First Schedule Part I.

(4) The Chief Licensing Officer may delegate the functions and powers under this Act to other authorized officers.

Requirements for a trade license

13. (1) A valid trade license shall expire on 31st December, on the year of issue.

(2) A person shall not conduct any business within the county, unless a person is the holder of a valid trade license for that business.

(3) Any person carrying on business within the jurisdiction of the County who fails to renew a trade license by 31st March, of the current trading year or any past years shall be guilty of an offence.

(4) A person who contravenes subsection (2) and (3) commits an offence, and shall upon conviction be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or to both.

Application for license

14. (1) An application for the grant of a trade license shall—

- (a) be lodged with the Chief Licensing Officer;
- (b) be in the approved form;

- (c) contain such information, and be accompanied by such documents as are required by the approved form;
- (d) be signed in a manner specified in the approved form; and
- (e) be accompanied by the prescribed fee.

(2) An application shall be made in any format approved by the Chief Licensing Officer.

(3) The Chief Licensing Officer shall, before determining an application, require the applicant to provide such additional information or documents as is necessary to enable the application to be determined.

- (4) The application fee once paid is non-refundable.

Grant of license

15. (1) The Chief Licensing Officer shall grant an application for a trade license if —

- (a) satisfied that the applicant has complied with all laws relating to health, hygiene and safety applicable to the trade license applied for;
- (b) inspection has been done and an invoice issued; and
- (c) the license fee has been paid to the Board.

(2) A trade license shall be issued in the approved form and shall be granted subject to such conditions specified in the trade license.

(3) Subject to section 18, the initial term of a trade license shall start on the date on which the license is granted and is valid up to the 31st December of that year.

(4) The issuance of trade licence under the provisions of Section 16 does not exempt an applicant from complying with all laws relating to alcoholic control, health, hygiene, environment and safety applicable to the trade license applied for.

Renewal of licenses

16. (1) The holder of a trade license shall, before the expiry of the trade license or such other dates, as may be prescribed apply in the prescribed form for the renewal of the trade license.

(2) The Chief Licensing Officer shall grant an application for the renewal of a trade license if an applicant meets the requirements of section 15 (1).

(3) The Chief Licensing Officer shall, before determining an application for renewal, require the applicant to provide such additional

information or documents as is necessary to enable the application to be determined.

(4) Subject to section 17, a trade license is to be renewed for each calendar year.

Revocation or suspension of trade license

17. (1) The Chief Licensing Officer may suspend or revoke for a specified period or cancel a trade license if they are satisfied that—

- (a) the conduct of the business is endangering the health or safety of persons who live or work in the neighborhood of the premises from which the business is conducted; or
- (b) the holder of the trade license has breached a condition of the trade license.

(2) Where the Chief Licensing Officer revokes or suspends a trade license, they shall give the holder of the license written notice of the cancellation or suspension, including the period of the suspension, together with a statement of the reasons for the decision.

(3) If a trade license is cancelled or suspended, the holder of the license shall immediately cease to conduct the business.

(4) A person who contravenes subsection (3) commits an offence, and shall upon conviction be liable to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months or both.

(5) If the Chief Licensing Officer revokes the suspension of a trade license, the holder of the license may resume conducting the business.

Surrender of license

18. The holder of a trade license may surrender the trade license by returning the trade license to the Chief Licensing Officer, but no refund of the license fee shall be made.

Transfer or assignment of license

19. The holder of a trade license shall not transfer or assign the license issued under this Act.

Appeal

20. (1) A person aggrieved by a decision of the Chief Licensing Officer may appeal to the Executive Committee Member against the decision.

(2) Executive Committee Member may confirm, reverse or modify the decision appealed against, and give such directions to the Chief

Licensing Officer as may be necessary to give effect to the member's decision.

(3) The Chief Licensing Officer shall comply with any direction given under subsection (2).

(4) Nothing in this section shall be construed to bar any aggrieved person from seeking any other legal redress.

Powers of authorized officers

21. For purposes of the provisions related to trading licensing authorized officer shall have the powers set out in the First Schedule Part II.

Register of trade licenses

22. (1) The Chief Licensing Officer shall establish and maintain a register of trade licenses which is to be available for inspection by the public during usual government office hours.

(2) The register shall contain such information as is determined by the Chief Licensing Officer, but shall not include confidential commercial information.

Offence of false or misleading information

23. Any person who gives false or misleading information in connection with an application for the grant or renewal of a trade license or when providing information required under this Act commits an offence and shall upon conviction be liable to a fine not exceeding fifty thousand shillings; or to an imprisonment of a term not exceeding six months or both.

License fees and additional fees

24. (1) The license fees that are payable for the grant or renewal of trade licenses, including any additional fees for the non-payment or late payment of such license fees, are to be determined each year by the Executive Committee Member with the approval of the County Assembly in the County Finance Act.

(2) The license fees that are payable for the grant or renewal of trade licenses, including any additional fees for the non-payment or late payment of such license fees, are to apply after 31st March each year.

(3) There shall be penalties for failure to display the trade license.

(4) License fees payable shall be as provided in the First Schedule Part III to this Act.

PART IV—PROVISIONS RELATING TO DESIGNATED PARKING AREAS

Designation of parking spaces

25. (1) The designated parking places for vehicles shall be as provided by the Executive Committee Member.

(2) The Executive Committee Member shall, from time to time determine designated parking areas.

(3) The Executive Committee Member may issue parking guidelines on the use of designated parking areas.

(4) The limits of car parking space shall be marked on the road, by lines, studs or such other indication as the Executive Committee Member may determine.

Requirements for parking and parking permits

26. The requirements for parking and parking permits shall be as follows—

- (1) A vehicle shall not be parked in a designated parking space for a duration exceeding the authorized duration of parking.
- (2) A person shall not put up a signpost or any other sign in a designated parking space stating that the parking is reserved without prior consent of the Executive Committee Member and on payment of prescribed fee as provided from time to time.
- (3) A person shall not park in a designated parking space in such manner that the vehicle stands in, or traverses over another parking space; or on any line, stud or other indication marking the limits of a parking space.
- (4) A driver or other person in charge of a motor vehicle who drives or parks within the designated parking space shall display the parking permit in front of the windscreen showing the amount paid, the date and time the vehicle entered the parking space and the authorized duration of parking.
- (5) A person who contravenes this section commits an offence.

Parking charges

27. (1) The Executive Committee Member shall, from time to time determine parking charges for designated parking spaces as prescribed in the Act.

(2) The parking charges shall be determined based on the period of parking.

(3) An operator or owner of a vehicle shall not park or permit to be parked any vehicle on the roadway or public place for any period longer than the authorized duration.

(4) Where a vehicle is parked in a space where payment is required the owner or operator of the vehicle shall make payment for the entire duration the vehicle is parked in that space.

(5) A person who contravenes the provisions of this section commits an offence.

Authorized persons

28. (1) The Board shall designate authorized officers to be in charge of designated parking places.

(2) An authorized officer may be assisted by uniformed parking assistants.

(3) Every parking assistant shall wear an identification badge and shall be responsible to the authorized officer.

Charges for clamping

29. (1) An authorized officer may authorize the clamping of a vehicle if the vehicle is parked—

- (a) in a non-designated parking area;
- (b) without evidence of payment; or
- (c) in a manner that contravenes the provisions of this Act.

(2) A clamped vehicle shall be unclamped and released upon payment by the owner or operator of the prescribed fee under the Act.

(3) Where the owner of a clamped vehicle does not pay the prescribed fee within a prescribed period, the authorized officer may cause it to be towed to a designated yard, at the owner's cost.

(4) Where the owner of a vehicle which has been clamped or removed under this section does not pay the fees and expenses due within a period of ninety days from the day on which the vehicle was removed from a designated area, the County Government may sell or otherwise dispose of such vehicle by public auction.

(5) Notice of the intended auction under subsection (4) shall be placed in the print media, and the proceeds of such sale or disposal, if any, be used to recover the cost incurred by the Executive Committee Member in removing, storing and disposing the said vehicle.

Display of Parking Permit

30. (1) A driver or a person in charge of a motor vehicle who drives or parks within the designated parking place shall display the parking permit in front of the windscreen showing the amount paid and the date and time the vehicle entered the parking place.

(2) A person who does not display the parking permit in accordance with subsection (1) shall be deemed not to have paid the required parking fees and provisions of section 29 shall apply to that motor vehicle.

Free parking

31. (1) Parking fees shall not be payable the whole day on Sunday, Public Holidays and after 2.00 pm on Saturdays.

(2) The Executive Committee Member may by notice—

- (a) exempt certain persons from payment of parking fees;
- (b) reserve parking spaces for persons living with disability; and
- (c) reserve parking spaces for county government.

Identification of officers

32. All authorized officers shall at all material times in the course of their duties, put on a uniform, carry and have in their possession a proper identification badge, issued by and bearing the authority of the County Government.

Multiple parking

33. A parking permit issued for a particular vehicle shall not be used for a vehicle other than the one whose registration number appears on a parking permit.

Commercial private parking permit

34. (1) A person operating a commercial private parking place within the county shall also obtain a permit from the Executive Committee Member to carry on such business under the provisions of the single business permit.

(2) A person who contravenes subsection (1) commits an offence.

Offences

35. A person who—

- (a) with intent to defraud, interferes with the writings or marks on a parking permit already issued;

- (b) without authority of the Executive Committee Member uses a parking space for the purpose of advertisement;
- (c) willfully damages vehicle clamp or any of its part;
- (d) willfully uses the parked vehicle to carry out business on a county government designated parking space;
- (e) without the authority of the Executive Committee Member removes or attempts to remove a clamp from a clamped vehicle; and
- (f) willfully parks in a parking place reserved for persons living with disabilities; commits an offence.

Obstruction

36. A person, who willfully obstructs, hinders or otherwise interferes with an authorized officer in the execution of their duties under this Act commits an offence.

Parking on Pavements

37. (1) A vehicle shall not be parked on a pavement or other non-designated parking place.

(2) A vehicle parked on pavement or other non-designated parking place shall be towed to the designated yard at the owner's cost.

**PART V—PROVISIONS RELATING TO OUTDOOR
ADVERTISING****Board may enter agreements**

38. (1) The Board may, on behalf of the County government, enter into agreements with any company for the mutual benefit of the county on outdoor advertising.

(2) The Board may provide selected infrastructure including street light poles, street or park benches and litter bins to a company in exchange for investment opportunities.

(3) At the expiry of an agreement, under paragraph (2) a company shall surrender the infrastructure provided under subsection (2) to the County government.

Application and revocation of permit

39. (1) A person shall apply for a permit under this Act in the prescribed form to the Board and the application form shall be accompanied by a plan or sketch showing, to the satisfaction of the Board, the position of the proposed advertising device or notice, its intended dimensions, the method of execution, and stating the material of

which it is to be constructed, its color, the period for which the advertisement is intended and such other information as the Board may require.

(2) The Board may on receipt of the application under subsection (1) request the applicant for any other relevant information.

(3) If the Board is satisfied that the advertisement application meets the requirements under this Act and poses no danger or obstruction, within thirty days, it shall issue a permit subject to any conditions it may impose.

(4) The Board may refuse to issue a permit in any case where, in its opinion, the display of an advertisement or the use of an advertising device would be likely to effect injuries to the amenities of, or to disfigure any neighboring, or for any other reason it may think proper, or may grant a permit subject to such terms and conditions relating to the construction, nature and erection of advertising device as it deems fit.

(5) If the Board does not approve the application, it shall notify the applicant of its reasons, in writing, within thirty days from the date of receipt of the application.

(6) Notwithstanding subsection (2) no advertisement shall be displayed—

- (a) without the consent of the owner of the land or building on which it is proposed to be displayed;
- (b) in a manner that it would endanger anyone using any road;
- (c) in a place or in a manner that would obscure or hinder the ready interpretation of any road signs or other navigation aid; or
- (d) in a manner that would hinder the operation of any device used for the purpose of security or surveillance.

Outdoor advertising fee

40. There shall be paid to the Board in respect of every permit issued under this Act such fees as may be determined by the Board from time to time.

Expiration of Permit

41. (1) A permit issued under this Act shall expire upon lapse of the requested period and shall be removed immediately thereafter.

(2) A person who fails to comply with subsection (1) commits an offence.

Cancellation of Permit

42. The Board may at any time by Notice to the holder, cancel a permit for—

- (a) contravention of any of the terms and conditions thereof or any of the provision of this Act; or
- (b) where in the Board's opinion the continued use of any advertisement or use of any advertising device would be likely to injure the amenities of, or to disfigure, any neighborhood, or for any other reason it may deem fit.

Producing of Permit on request

43. (1) A person who is granted a permit under this Act shall on demand at any reasonable time produce such permits to the Board or to any county enforcement officer.

(2) A person who contravenes or fails to comply with the provisions of this Act commits an offence.

Removal of Advertisement

44. The Board may without notice cause to be removed or put down and disposed of any advertising device erected, fixed, placed, maintained, displayed or used in contravention of this Act.

Limitation of this Act

45. This Act shall not apply to—

- (a) public notices exhibited at places of public worship or hospitals within their premises;
- (b) advertisements within the windows of premises indicating the name and business of the person occupying such premises; or
- (c) name boards of reasonable dimensions relating to private residential premises.

Offences

46. Any person who, in any street or public place, erects, fixes, places, maintains, displays or uses or permits to be erected, fixed, placed, maintained, displayed or used, any advertising device without first obtaining a permit, or otherwise than in accordance with the terms and conditions of such a permit otherwise than in accordance with this Act is guilty of an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding twelve months or both.

PART VI—PROVISIONS RELATING TO MINING AND AGRICULTURAL CESS

Tax Chargeable for Agricultural Produce

47. (1) Subject to subsection (2), the Board shall collect Cess revenue on Agricultural produce within the County in accordance with the Second Schedule of this Act.

(2) The Executive Committee Member, may impose a Cess on any kind of agricultural produce not already provided for under the Second Schedule of this Act, or by Regulations, and may make such incidental provisions as are necessary or expedient for the collection of the Cess revenue.

Declaration of essential produce and development of certain produce

48. (1) The Executive Committee Member in consultation with the County Executive Committee Member for Agriculture may, in every five years, review, declare and publish scheduled produce that in their opinion are necessary to be essential produce for the purposes of this Act.

(2) In making a declaration under subsection (1) the County Executive Member responsible for Agriculture may declare a particular variety only of a scheduled produce to be an essential produce.

Mining and Agricultural Cess

49. (1) The Executive Committee Member may impose a Cess on any kind of mining, agricultural produce and essential produce and make any such incidental provision as is necessary or expedient; and the Cess shall form part of the County Government's revenues.

(2) The incidental provisions which may be made in the regulations to this Act, under subsection (1) may include provisions—

- (a) requiring any person (whether within or outside the area of jurisdiction of the county government) who buys or markets on behalf of a producer agricultural produce on which the cess is payable, and on which no cess has then been paid, to deduct from the money payable to the seller an amount equal to the cess payable on the produce, and to remit the amount to the authority to whom the cess is payable; and
- (b) provided that in any proceedings it shall be presumed that where agricultural produce on which a cess is payable is brought, no cess has been paid on that produce, until the contrary is proved.

Payment to the County Government by Agricultural Producers

50. (1) All payments to the County Government by Agricultural Producers made under this Act shall be deducted and paid by the company or factory where the agricultural produce is supplied to be processed.

(2) All payments not provided for under subsection (1) shall be collected by an authorized officer as per Regulations made by the Executive Committee Member.

(3) The company or factory referred to in subsection (1) shall ensure that all the amounts deducted are remitted to the County Treasury within a period of 30 days following the date of deduction.

(4) The authorized officer referred to in subsection (2) shall ensure that all the amounts collected are accounted for and remitted to the County Revenue account daily.

(5) The company or factory shall make and keep such up to date books, accounts and records as are reasonably necessary to determine the mass of agricultural produce supplied to it and Cess deductions made thereof for a period of at least 7 years after the completion of the transactions to which they relate.

(6) The Board may by notice in writing given to the company or factory, direct the revenue payer as to the books, accounts and records the company or factory is required to make and keep.

(7) An authorized officer shall be allowed unlimited access, within the legal bounds, to the records kept by the company or factory.

(8) Any company or factory which fails to comply with the requirements of this section or otherwise than in accordance with this Act is guilty of an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months or both.

Payment to the County Government on agricultural produce on transit

51. The authorized officer shall ensure that Cess on mining and agricultural produce on transit is collected at barriers set up at the points of entry as per Regulations made by the Executive Committee Member and shall ensure that all the amounts collected are accounted for and remitted to the County Revenue account daily.

Agreement in relation to revenue collection

52. The County Government may enter into an agreement authorizing a person or entity to collect Cess revenue payable to the county government on such terms and conditions as are specified in the agreement.

General penalty for offences committed by Agricultural Producers

53. Except as provided for in this Act, an agricultural producer who contravenes the provisions of this Act shall be guilty of an offence and is

liable on conviction to a fine not exceeding two hundred thousand shillings or imprisonment for a term not exceeding one year or both.

PART VII—PROVISIONS RELATING TO TAX WAIVERS

Tax incentives and reliefs

Constitution of Kenya, 2010

54. (1) The Executive Committee member may exempt, waive or vary fees or charges payable to the County and the same shall constitute tax incentives and reliefs.

(2) Waiver of land rates penalties including reduction of property tax struck rate as contemplated by Article 210 of the Constitution as regards tax waivers and the administration thereof.

Authority to Waive Tax and Administration of Tax Waivers

55. (1) No tax may be waived except in the manner provided for in this Act, any applicable national legislation or any other Act of the County Assembly of Meru.

(2) No tax waiver shall be prescribed except in the manner provided by law.

Waiver of taxes

56. (1) The Executive Committee Member responsible for Finance may on a recommendation made under subsection (3) waive or reduce a rate, tax, fee or charge that is imposed or payable under a revenue law.

(2) An application to waive or reduce a rate, tax, fee or charge that is imposed or payable under a revenue law must be made in writing to the Executive Committee Member.

(3) The Executive Committee member referred to in subsection (2) may recommend that the rate, tax, fee or charge the subject of the application be waived or reduced if they are satisfied that—

- (a) the applicant would suffer severe financial hardship if the rate, tax, fee or charge were not waived or reduced;
- (b) it is not cost effective to take measures to recover the rate, tax, fee or charge;
- (c) the waiver or reduction is for the purpose of encouraging the applicant to pay amounts outstanding to the county government;
- (d) grounds of equity or other good cause exist that make it expedient to waive or reduce the rate, tax, fee or charge;

(e) an order of a court is in force that specifies the imposition or payment of a rate, tax, fee or charge at a lower rate or amount than is provided for in the revenue law under which the rate, tax, fee or charge is imposed or payable.

(4) A recommendation under subsection (3) must be in writing and must—

(a) specify the rate, tax, fee or charge that is waived or the amount of the reduction of the rate, tax, fee or charge;

(b) specify the person or body to whom the waiver or reduction applies; and

(c) set out the reasons for the recommendation.

(5) Within 14 days after making a decision under subsection (1), the Executive Committee Member must cause a copy of the decision to be provided to the Governor and the applicant together with a statement of the reasons for the decision.

(6) A person or body granted a waiver or reduction of a rate, tax, fee or charge is not subject to any collection or enforcement procedure in respect of the rate, tax, fee or charge that is waived or the part of the rate, tax, fee or charge that is reduced.

(7) The Executive Committee Member responsible for finance must cause—

(a) a public record of each waiver or reduction to be maintained together with the reason for the waiver or reduction; and

(b) within 90 days or such other prescribed period after the end of each year, the Auditor-General to be notified of any waiver or reduction made for that year.

(8) A county public officer within the meaning of the County Governments Act, 2012 or any other prescribed office holder may not be excluded from the payment of a rate, tax, fee or charge by reason of their office or the nature of their work.

Tax Waivers Administration

57. (1) The Executive Committee Member may, where they deem it appropriate waive the payment of any tax, fees or other payment due to the county.

(2) The power of the Executive Committee Member to waive tax shall be exercisable, in respect of every tax in this Act in the following circumstances—

- (a) where the waiver is for purposes of encouraging defaulting tax payers to pay such amount as may be required to enable the county recover part of the amount owing from the defaulting tax payers;
 - (b) where, in the opinion of the Executive Committee Member, there exist such compelling circumstances that make it equitable, expedient and in the interest of the financial advantage to the county that the waiver be made; and
 - (c) For any other public interest reason that the Executive Committee Member deems it fit to issue a waiver of tax, fees or payments due to the County.
- (3) Where the Executive Committee Member intends to waive any tax, they shall publish such intention in the Gazette not less than fourteen days before the intended date of the waiver.
- (4) The notice referred to in subsection (3) shall indicate the reasons for the intended waiver and shall invite comments from the public on the intended waiver.

Waivers to be published

58. Every waiver shall be reported to the County Assembly and published in the Gazette not more than fourteen days after it is granted.

Report of waivers

59. Pursuant to Article 210 of the Constitution, the Executive Committee Member shall in respect of every waiver of tax, fees or payments—

- (a) Maintain a public record of each waiver together with the reason for the waiver; and
- (b) Report to the Auditor-General and the County Assembly, each waiver, and the reason for it.

Records of waivers

60. The Executive Committee Member shall not waive tax or fees or authorize the exclusion of any persons from payment of tax or fees except as provided for under this Act.

PART VIII PROVISIONS RELATING TO TRADE AND MARKETS

Establishment and control of public markets

61. (1) No public market shall be established within the area of jurisdiction of the county other than by the county government and no

person shall sell, or buy goods in or use a public market except with the consent of the Board given by the authorized officer and upon the payment of the fees and charges currently in use under this Act.

(2) All public markets shall be open and under the control of the Board which shall appoint authorized officers and such other persons as may be necessary to secure the effectual control and supervision of such markets. The County Government shall not recognize any grouping purporting to usurp this role.

(3) No public gatherings or assemblies other than for the purposes of selling or buying shall be held in a public Market without prior permission from the authorized officer.

(4) No person shall be allowed to build any structures/stalls in the public market without authority in writing by the Board.

(5) Any person who contravenes or fails to comply with the provisions of this section commits an offence.

Inspection and search

62. An authorized officer may at any reasonable time, enter a place that they believe to be a place where goods are being manufactured, prepared or supplied or services are supplied and arranged and shall;

- (a) inspect goods or partly manufactured goods;
- (b) take a sample of anything to which the goods are manufactured or produced;
- (c) Make inquiries of any person employed or has responsibility over that place; or
- (d) Inspect and take copies of records required to be kept under this Act.

Confidential information

63. (1) An officer who divulges confidential information obtained during the course of inspection or search conducted under this Act commits an offence.

(2) This section shall not apply to information that is—

- (a) given as evidence in court proceedings;
- (b) given as part of a report prepared for the purpose of an investigation; and
- (c) a matter of public record.

(3) A person who commits an offence under this section is liable upon conviction to a fine not exceeding fifty thousand shillings, or a term of imprisonment not exceeding six months or to both.

Licenses of appointed places

64. (1) A person shall not hold space in the public market within the county without a license;

(2) The Executive Committee Member may grant a person a license to establish and use a designated area as a public market for the sale of marketable commodities;

(3) A person who contravenes subsection (1) commits an offence and is liable upon conviction to a fine not exceeding fifty thousand shillings or to a term of imprisonment not exceeding six months or to both.

Stallage and charges

65. (1) The Executive Committee Member shall demand from every person—

- (a) using a stall or place in a public market; or
- (b) bringing into the market any marketable commodities which the Executive Committee Member may permit to be sold;
- (c) using a weighing or measuring instrument provided and kept in the market; such stallages and charges as maybe prescribed.

(2) The stallages and charges payable under sub-section (1) shall be paid at such times and in such a manner as may be prescribed.

(3) Where a person liable for payment of any stallage or charge does not pay on demand, the amount due may be recovered as a debt.

(4) A person who assaults a public officer or a person duly authorized to collect stallage or charges is liable upon conviction to a fine not exceeding fifty thousand shillings; or to imprisonment for the term not exceeding six months or to both.

License for commercial activities

66. For carrying out of any commercial activity from an open air market—

- (a) a regular trader must obtain a license; and
- (b) a casual trader must pay such fee as may be prescribed.

(2) A license issued under subsection (1) shall be guided as provided under the Third schedule.

Street hawkers

67. A street hawker may carry out commercial activity from a designated place or street by moving from place to place.

Buskers

68. Selling by busking is permitted under this Act and shall be subject to the conditions set under the Third Schedule.

Disorder in the market

69. (1) A person in charge of a public market or a person authorized may remove from the public market, any person who behaves in a disorderly manner and who misconducts themselves.

(2) A person who in a public market behaves in a disorderly manner or offensive manner commits an offense and is liable upon conviction to a fine not exceeding fifty thousand shillings; or to a term of imprisonment not exceeding six months or to both.

Eviction from public market

70. (1) Any person who is found committing or who is reasonably suspected of committing an offence under this Act in any public markets shall be liable to be evicted from such market by the authorized officer or by a police officer for the purposes of keeping law and order in a public market.

(2) An authorized officer may in their sole discretion refuse admittance to any person to enter any public market if to their knowledge; the person has been convicted on more than one occasion of any offence under this Act.

(3) Any person who, having been lawfully evicted from a public market or having been refused admittance, unlawfully enters such public market commits an offence.

Prohibited goods

71. (1) A market operator shall not sell or offer for sale prohibited goods in a public market provided in the Third Schedule.

(2) A trader shall not sell or offer for sale prohibited goods.

Prescribed goods

72. (1) A trader shall not sell or offer for sale at a public market prescribed goods unless information with respect to the goods is

maintained by the vendor in accordance with this section and the Third Schedule.

(2) Every trader shall maintain the information provided to the operator.

(3) An officer who confiscates trader's perishable goods shall make an application to the magistrate's court within two days.

(4) A person who contravenes this section commits an offence and is liable upon conviction to a fine not exceeding fifty thousand or imprisonment to a term not exceeding six months.

Access to prescribed goods

73. Every trader shall, upon request, produce prescribed goods or provide access to prescribed goods to an authorized officer.

Seizure and removal of prescribed goods

74. Where an authorized officer on reasonable grounds, is satisfied that the goods are—

- (a) prohibited goods; and
- (b) not being sold by an authorized sales representative of the producer, manufacturer, wholesaler, distributor or retailer of the goods, the officer may, without laying any information or obtaining any warrant, seize and remove those goods.

Sale of meat

75. (1) A person shall not sell meat except in a public market or in such shops as are licensed by the Executive Committee Member.

(2) The Executive Committee Member may grant to any person license to sell meat at any premises other than a public market, upon payment of such sums and terms and conditions prescribed.

(3) There shall be no payable fee for a license to sell meat where a premise is licensed as a slaughter house.

(4) A person shall not be allowed to sell meat unless he meets the standards provided for in the public health laws in force.

(5) A person who contravenes this section commits an offence and is liable upon conviction to a fine of fifty thousand shillings or to a term of imprisonment not exceeding six months or both.

Sale of marketable commodities and other goods

76. (1) Subject to section 78, a person shall not sell any marketable commodities in the entrance to any building or on the pavements of any

road situated within the limits of a prescribed area for the purpose of this section.

(2) Subject to sub-section (1), a person shall not sell any marketable commodities in any part of any public place within the limits of a prescribed area.

(3) A person who contravenes subsection (1) commits an offence and is liable upon conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a period not exceeding three (3) months.

Exceptions

77. Section 76 shall not apply to the carrying of marketable commodities from place to place for the purpose of sale within a prescribed area except where —

- (a) any sale in accordance with the provisions of any law relating to hawkers of any marketable commodities at any building situate within any area prescribed for the purposes of that section;
- (b) any sale of any marketable commodities in any shop or in any public market held for public purposes within any area prescribed for the purposes of that section;
- (c) any sale of any marketable commodities in the entrance to of any building situated within any area prescribed for the purposes of that section in any case where the vendor first obtains the permission of the owner or occupier of such building to sell and so conducts their business so as not to cause obstruction to any person lawfully using such road; or
- (d) any sale of any marketable commodities as defined in section 78, in any part of any public place or within any area prescribed for the purposes of section 76, by any person to whom a permit is issued and who sells at the place and in accordance with the terms and conditions specified in the permit issued.

Issuance of permits

78. (1) Every person desirous of being issued a permit authorizing the person to sell, in any part of a public place or within an area prescribed for the purposes of section 77, any permitted marketable commodities shall make an application to the Board.

(2) Every applicant shall produce evidence to the satisfaction of the Board as to their good character.

(3) A permit under subsection (1) shall be issued by the Board upon payment of the prescribed fee, and shall be valid for one year from the date of issuance.

(4) Every person to whom a permit is issued under subsection (3) must display the permit in a conspicuous place and produce their permit when required to do so by the Board or any authorized officer.

(5) An applicant for the permit under this section who is dissatisfied by a refusal of the Board to grant the permit may appeal to the Executive Committee Member.

Inspection by county health officers

79. A county public medical officer shall carry out all inspection of animals and articles of food at the public market in accordance with regulations made under this Act.

Renting of stalls for sale of meat

80. (1) The Board may lease out one or more stalls or blocks in the portion of a public market used for the sale of meat and may be leased by the Board to a person for a period not exceeding five years at any one time.

(2) Subject to subsection (1)—

- (a) a person shall not be permitted to take a lease of more than one stall or block at the same time; or
- (b) a lessee of any stall or block shall not assign or transfer the lease to any other person, or permit the use of any stall or block by any other person without written authorization by the Board.

(3) The Executive Committee Member may by notice in writing revoke any lease granted by the Board under subsection (1).

Offences related to public markets

81. A person who—

- (a) sells in the public market, any butcher's meat without a license; or
- (b) sells any article in the public market, otherwise than in accordance with this Act; or
- (c) within the county sells, exposes or offers for sale any butcher's meat except in a shop for which a license has been so granted; or
- (d) obstructs or opposes any authorized officer in the execution of their duty under this Act or; or

- (e) creates or causes any disturbance in the public market or at or near the same during the hours when the same is open, or disturbs the quiet and good order of the same by offering any article for sale in a loud voice to attract customers or by shouting, singing, smoking or screaming therein, or in any other manner; commits an offence.

PART IX—PROVISIONS RELATING TO PUBLIC NUISANCE

Powers of the Executive Committee Member relating to public nuisances

- 82.** (1) The Executive Committee Member may with the approval by the County Assembly declare an act to be a public nuisance.
- (2) A public nuisance under subsection (1) shall, provide adequate notice to affected persons where the nuisance requires adjustment in buildings or trading sites or otherwise affects the livelihood of any person.
- (3) Notwithstanding the provisions of any other written law for the time being in force, the Executive Committee Member, may —
- (a) prescribe measures for the control of public nuisances, including waste, pests and insects;
 - (b) establish and manage pounds, and determine the circumstances and conditions under which any article, vehicle, animal or bird found to be abandoned may be impounded and, if necessary, be sold or destroyed;
 - (c) take all measures possible to ensure activities within the County to conform with the County legislation on health, safety, environmental and other relevant standards; and
 - (d) take any other step that may be necessary to implement this Act.

Responsibilities of the Board to control public nuisances

- 83.** (1) The Board shall —
- (a) compel occupiers or, in the case of vacant premises, owners, to keep their premises free from offensive or unwholesome matter;
 - (b) monitor the keeping of animals, birds and bees at their premises by any owner or occupier, so that their keeping or the premises are not constructed, situate, used or kept in such manner as to be a public nuisance, or otherwise offensive, or injurious to public health;

- (c) take such steps and measures as may be necessary for securing the prevention and destruction of insects, fungi and any other pests;
- (d) take measures for destruction and suppression of rats and vermin within the County, and to set traps or take other measures necessary for the purposes of any land;
- (e) establish and maintain sanitary services for removal, destruction of, or otherwise dealing with, all kinds of refuse and effluent, preventing flow of any noxious matter or waste flowing or discharged from premises into the street, any water course or other places not approved for the reception of such discharges; and
- (f) take other necessary steps under the Act.

(2) The Board shall, if satisfied that a public nuisance exists, serve a notice on the owner, or, if the owner cannot be found, on the occupier of the premises where the nuisance exists, requiring such owner or occupier, as the case may be, to remove the nuisance within the period specified in the notice.

(3) The Board may further instruct the owner or occupier under subsection (2) to take additional measures in order to prevent a recurrence of the nuisance.

(4) A person who fails to comply with a notice issued under subsection (1) to remove the nuisance within the period specified in the notice commits an offence.

Public nuisances

84. (1) Any person who shall—

- (a) in any street or in connection with any shop, business premises or other place which adjoins any street and to which the public access; or
- (b) (i) upon any other premises plays, operates or causing to be suffering to be played or operated any musical in wireless, loud-speaker, amplifier or similar instrument hereby making, causing or allowing the making of noise, which is so loud and continuous or repeated as to cause annoyance or to constitute a nuisance to occupants or inmates of any premises in the neighbourhood or to passers-by on a street shall be guilty of an offence;
- (ii) No prosecution shall be instituted against a person for an offence under this Act in respect of any premises referred to in paragraph (b) (i) unless the nuisance remains unabated after the

expiration of a reasonable period of time or two days from the time of service on that person of a notice signed by the authorized officer notifying him of the nuisance and calling for a stop to it,

Provided that paragraph (b) of this section do not apply to any wireless loud speaker, gramophone, amplifier or similar instrument in use by the police in the execution of their duty.

(2) Any person who shall in connection with any building operations, demolitions or road construction or reconstruction works causes or allows to be made noise which is so loud and continuous as to constitute a nuisance to the occupant of any premises in the neighbourhood shall be guilty of an offence.

(3) Any person who shall install, maintain or use or permit the installation maintenance and use in any factory or workshop which, by reason of smoke, fumes, chemicals, gases, dust, smell, noise, vibration or other cause may be or become a source of danger, nuisance discomfort or annoyance to occupants of any premises in the neighbourhood shall be guilty of an offence.

(4) Any person who shall use animal watering trough or any water fountain erect in any public place for the purpose of ablutions or the washing of clothes or any article shall be guilty of an offence.

(5) Any person who—

(a) flies or permits to be flown any kite in any place traversed by overhead electric cables, throws or permits to be thrown any string, rope or wire within the vicinity of any overhead electric cables; or commits a nuisance in a public place shall be guilty of an offence;

(b) any person who shall erect or authorize the erection of any fence alongside a street without the prior consent of the County shall be guilty of an offence;

The County may serve a notice upon the owner or occupier of any land or building upon which any fence has been erected in contravention of paragraph (5) requiring such person within the period specified in such notice to remove the same.

(6) Any person who shall without lawful authority deposit or cause or permit to be deposited any soil, vegetation, refuse, debris or animal waste on any land in the County, shall be guilty of an offence.

(7) Any person who keeps within the County area any animal or poultry which causes a nuisance to any of the residents in the neighbourhood shall be guilty of an offence provided that no prosecution

shall be instituted against any person for an offence under this section unless such nuisance is continued after the expiration of fourteen days from the date of the service on such person of a notice signed by the authorized officer notifying them of the nuisance.

(8) Any person who, except with the written permission of the authorized officer and subject to such conditions as they may deem fit, keeps within the area of the County a game animal, reptile (other than a lizard) or an ass, mule, ox, bull, cow goat, camel, sheep, or pig shall be guilty of an offence.

(9) Any person who has under their control or their custody any game animal, reptile, ass, mule, ox, bull, cow, goat, camel, sheep or pig which causes a nuisance or annoyance to any of the residents of the area or any person with an animal, reptile, poultry or bird which wanders on a street in such a manner as to cause obstruction or inconvenience to traffic shall be guilty of an offence.

(10) Any person who keeps an animal, reptile, poultry or bird, which is so kept as to be likely to become injurious to the health of any person shall be guilty of an offence.

General roads and streets nuisances

85. (1) Where, in the opinion of the County, any hedge, tree or other growth is so placed or in such conditions as—

(a) to be a danger to any person or vehicle using a street or:

(b) to interfere with;

(i) the view along any street or from one street into another, or

(ii) the use of the public street by pedestrian or vehicular traffic.

The County may serve a notice to the owner or occupier of the land on which such hedge, tree, or other growth is situated requiring them within such a period of time, not being less than seven days to cause the hedge, tree or other growth to be chopped, trimmed or removed.

Any person who fails to comply with the requirements of a notice served in accordance with paragraph (b) (ii) shall be guilty of an offence.

Without prejudice to any prosecution which may be instituted under paragraph (1), the County may enter upon any land owned or occupied by the person whom such notice and execute any of the work specified in the notice and any expenses incurred by the County in so doing shall be recovered from the said person as a civil debt.

(2) Any person who shall, without statutory authority or the consent of the authorized officer given in writing, erect or permit the erection of any structure in such a position that is sited to protrude over a street shall be guilty of an offence.

(3) The provisions of this Act shall not apply to any structure approved by the County Government under any rules and regulations of the County for the time being in force.

(4) No person shall hang or erect or permit the attachment, hanging or erection of any structure on premises in such a manner that it protrudes over or into a street without the permit from the County or otherwise than in accordance with any conditions attached to any such permit.

(5) A permit issued under this Act shall expire on 31st day of December in the year in respect of which it is issued and there shall be a fee payable to the Board at the time of issue of such permit as is prescribed in the fees and charges currently in use.

(6) The authorized officer may serve a notice on the owner or occupier of any premises from or alongside which an object has been attached, hung or erected in contravention of sub section (1) requiring the removal of the said object within a period specified in such notice.

Any person who contravenes or fails to comply with the provisions of this section or any conditions attached to a permit issued there under or a notice served under provisions sub section (5) shall be guilty of an offence.

The provisions of sub section (6) shall not apply to an advertisement permitted under any rules and regulations of the County for the time being in force or at any structure approved by the County.

Source of danger on roads and streets

86. (1) Where, in or on any land adjoining a street, there is unfenced or inadequately fenced source of danger to persons using the street, the County may by notice to the owner or occupier of the land, require him within such time (not being less than seven days) as may be specified in the notice, to execute such notice, shall be guilty of an offence.

Any person who fails to comply with a notice served in pursuance of sub section (1) within the time specified in such notice, shall be guilty of an offence.

(2) Any person who—

(a) in any way wilfully obstruct the free passage of any public street;

Provided that if such owner does not pay the fees and expenses due within a period of sixty days from the date the vehicle, article or material was impounded, the County may sell or otherwise dispose of the same and the proceeds of such sale or disposal, if any, shall be offset against the outstanding fees and expenses, if any, incurred by the County in removing or disposing of the vehicle or article or material.

(7) Any person who shall in any street or public place—

- (a) ignite any firework;
- (b) in any street or public place or in any place within the sight or hearing of any person therein; disturb the peace by quarrelling with any other person or use any violent, scurrilous or abusive language;
- (c) in any street public place or in place within sight or hearing of any persons therein, sing scurrilous or abusive song words whether any particularly addressed therein or not;
- (d) commit any nuisance in any street or public place;
- (e) commit any act contrary to public good and decency;
- (f) without County authority deface the footway or roadway by writing of other marks;
- (g) cut, breakdown, uproot, chop or in any other manner destroy or injure or climb any tree or shrub growing in any street or;
- (h) except in case of emergency, sound any motor horn, cycle bell or similar warning instrument;
- (i) without the consent of the County, light or maintain a fire or brazier;
- (j) in the central business areas as defined by any rules and regulations of the County for the time being in force ride or drive any animal on a footpath shall be guilty of an offence;

(8) Any person who shall in or near a street discharge a missile in a manner likely to cause damage to property or danger to any person shall be guilty of an offence.

(9) Any person who shall drive or cause to be driven any vehicle so loaded that vehicle loads its contents or any part thereof spill into the surface of a street shall be guilty of an offence.

(10) Any person who shall be found loitering in any of the County property other than a Street or public place or residential property, without lawful authority shall be guilty of an offence.

Carriage of food

87. (1) A person who in a street, in connection with a trade or business, conveys in or on a vehicle or who permits to be so conveyed open food in a manner liable to involve the risks of contamination shall be guilty of an offence.

(2) The owner of any open food which is carried in contravention of sub section (1) shall be guilty of an offence.

Personal cleanliness

88. (1) A person engaged in the handling, storage or conveyance of open food in connection with trade or business shall whilst so engaged—

- (a) keep as clean as may be reasonably practicable all parts of their person which may be liable to come into contact with food;
- (b) keep as clean as may be reasonably practicable all parts of their clothing, which are likely to come into contact with the food;
- (c) keep any cut or abrasion on any exposed part of their person covered with a suitable and clean waterproof dressing;
- (d) refrain from spitting or blowing their nose otherwise than into a suitable cloth or tissue;
- (e) refrain from smoking;
- (f) if the food is meat, wear a clean white garment of the colour and pattern approved by Public Health Officer; and
- (g) a person who contravenes or fails to comply with the provisions of sub section (1) (a) to (f) shall be guilty of an offence.

(2) A person who has in their possession or under their control for the purpose of sale of meat, poultry which has not been inspected at a designated place as defined by the Public Health Officer or by the Medical Officer of Health or a Health Inspector and marked as having been so inspected shall be guilty of an offence.

General public health nuisances

89. (1) The following are deemed to be public health nuisances and shall be dealt with in the manner provided in this Act—

- (a) any vessel, or other conveyance, in such a state or condition as to be injurious or dangerous to health;
- (b) any dwelling or premises or part thereof which is or are of such construction or in such a state or so situated or so dirty or so verminous as to be, in the opinion of the Medical Officer of

Health, injurious or dangerous to health, or which is or are liable to favour the spread of any infectious disease;

- (c) any street, road or any part thereof, any stream, pool, ditch, gutter, watercourse, sink, water-tank, cistern, water-closet, earth-closet, privy, urinal, cesspool, soak away pit, septic tank, cesspit, soil pipe, waste-pipe, drain, sewer, garbage receptacle, dust-bin, dung pit, refuse-pit, slop-tank, ash-pit or manure heap so foul or in such a state or so situated or constructed as in the opinion of the Medical Officer of Health to be offensive or to be injurious or dangerous to health;
- (d) any well or other source of water supply or any cistern or other receptacle for water, whether public or private, the water from which is used or is likely to be used by man for drinking or domestic purposes or in connection with any dairy or in connection with the manufacture or preparation of any article of food intended for human consumption, which is in the opinion of the Medical Officer of Health polluted or otherwise liable to render any such water injurious or dangerous to health;
- (e) any noxious matter, or waste water, flowing or discharged from any premises, wherever situated, into any public street, or into the gutter or side channel of any street, or into any watercourse, irrigation channel or bed thereof not approved for the reception of such discharge;
- (f) any stable, cow-shed or other building or premises used for keeping of animals or birds which is so constructed, situated, used or kept as to be offensive or which is injurious or dangerous to health;
- (g) any animal so kept as to be a nuisance or injurious to health;
- (h) any accumulation or deposit of refuse, offal, manure or other matter whatsoever which is offensive or which is injurious or dangerous to health;
- (i) any accumulation of stones, timber or other material if such in the opinion of the Medical Officer of Health is likely to harbour rats or other vermin;
- (j) any premises in such a state or condition and any building so constructed as to be likely to harbour rats;
- (k) any dwelling or premises which is so overcrowded as to be injurious or dangerous to the health of the inmates, or is dilapidated or defective in lighting or ventilation, or is not provided with or is so situated that it cannot be provided with

sanitary accommodation to the satisfaction of the Medical Officer of Health;

- (l) any public or other building which is so situated, constructed, used or kept as to be unsafe, or injurious or dangerous to health;
- (m) any occupied dwelling for which such a proper, sufficient and wholesome water supply is not available within a reasonable distance as under the circumstances it is possible to obtain;
- (n) any factory or trade premises not kept in a cleanly state and free from offensive smell arising from any drain, privy, water-closet, earth-closet or urinal, or not ventilated so as to destroy or render harmless and inoffensive as far as practicable any gases, vapours, dust or other impurities generated, or so overcrowded or so badly lighted or ventilated
- (o) any factory or trade premises causing or giving rise to smells or effluvia which are offensive or which are injurious or dangerous to health
- (p) any noise or sound that is so loud whether caused by music instrument, radio, television or any such device or through some other activity whether deliberate or not in such a state or condition as to be injurious or dangerous to health;
- (q) any area of land kept or permitted to remain in such a state as to be offensive, or liable to cause any infectious communicable or preventable disease or injury or danger to health
- (r) any act, omission or thing which is, or may be dangerous to life, or injurious to health.
- (s) any chimney sending forth smoke in such quantity or in such manner as to be offensive or injurious or dangerous to health; and
- (r) any cemetery, burial-place or place of sepulchre situated or so crowded or otherwise so conducts as to be offensive or injurious or dangerous to health;

(2) The author of a nuisance means the person by whose act, default or sufferance nuisance is caused, exists or is continued, whether he is the owner or occupier or both owner and occupier or any other person.

Parasites deemed public nuisance

90. For the purposes of this part—

- (a) all collections of water, sewage, rubbish, refuse, ordure or other fluid or solid substances which permit or facilitate the breeding or multiplication of animal or vegetable parasites of men or

domestic animals, or of insects or of other agents, which are known to carry, such parasites or which may otherwise cause or facilitate the infection of men or domestic animals by such parasites;

- (b) any collection of water in any well, pool, gutter, channel, depression, excavation, barrel, tub, bucket or any other article, and found to contain any of the immature stages of the mosquito;
- (c) any cesspit, latrine, urinal, dung-pit or ash-pit found to contain any of the immature stages of the mosquito, shall be nuisances liable to be dealt with in the manner hereinbefore provided for the treatment of nuisances.

Protected areas

91. (1) The Board may declare an area to be protected for purposes of this Act.

(2) Without prejudice to subsection (1) the following are deemed to be Protected areas—

- (a) natural recreational spaces and urban conservation areas;
- (b) cultural and national heritage areas and sites;
- (c) gazetted buildings and historical monuments;
- (d) hospitals and schools.

Licenses and permits application

92. (1) The owner or occupier of any premises proposing;

- (a) to establish a business or trade that is likely to attract pests or cause other nuisance; or
- (b) to install a source of air or noise pollution, shall at least three months before the work or trade is begun or the source of pollution is installed, make an application to the department for the relevant licence or Permit, specifying the—
 - (i) the nature of the work or trade the applicant intends to start or is engaged in or the source of the pollution;
 - (ii) plans of any building or other construction intended for use by the business;
 - (iii) fuels and equipment to be used in the source creating pollution, or material which may attract pests or other thing that may cause nuisance;
 - (iv) details of the method to be used to—

- (a) prevent the proliferation of pests or other nuisance;
- (b) arrest smoke, dust, grit, fumes and odour;
- (c) control or regulate noise levels.
- (v) height of any chimney connected to a source of air Pollution;
- (vi) area and address in which the work or trade, or the source of pollution, attracting pests or causing other public nuisance is intended to be installed.

(2) On receipt of an application under subsection (1), the department, if satisfied that the work or trade or the source of pollution, attracting pests or causing other public nuisance meets with its requirements on the abatement or control of the nuisance, shall within three months from receipt of an application approve the application and issue a license or permit subject to any conditions it deems fit.

(3) If the department does not approve the application, it shall notify the applicant of its reasons, in writing, within three months from the date of receipt of the application.

(4) Notwithstanding subsection (2) no trade which has a high potential of attracting pests or creating air or noise pollution shall be sited in a residential area.

(5) Any person who builds or installs a new source of pollution in contravention of the provisions of this section or who having been licensed fails to build in conformity with the conditions contained therein is guilty of an offence and on conviction shall be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding two years or to both.

Revocation or suspension of a license

93. (1) The Board may refuse to issue, or may revoke or suspend a license or permit with respect to any license or permit relating to-

- (a) the use of premises as a theatre, music hall, concert room or other place of entertainment, or as a restaurant or bar;
- (b) for the carrying on of any work or trade; on grounds—
 - (i) the method adopted or proposed to be adopted by the applicant for preventing noxious or offensive vapours, gases or smells, excessive noise, the proliferation of pests or other nuisance arising from such work or trade are not efficient;
 - (ii) the granting of such license or the renewal thereof would cause nuisance or annoyance to persons residing in the neighbourhood.

(2) Board may cancel any license or permit granted by it on any such grounds as it may by law specify and, in addition, on any of the following grounds—

- (a) with respect to any license, that it is contrary to the public interest for such license to remain in force; and
- (b) with respect to any license specified in subsection (1) (b)—
 - (i) that the premises to which the license relates or any adjacent premises owned or occupied by the holder of the license are frequented by persons of bad character;
 - (ii) that the continuation of such license in force would cause nuisance or annoyance to persons residing in the neighbourhood; and
- (c) with respect to any license for the carrying on of any work or trade—
 - (i) that the premises used by the holder of the license have become unsuitable for the purpose;
 - (ii) that the methods adopted by the applicant for preventing pests, noxious or offensive vapours' gases, smells, noise or other nuisance arising from the work or trade have become ineffective.

(3) The Board shall inform the owner of the work, trade or premises of its decision under this section within 14 days of the receipt of a complaint from any interested person.

Period and renewal of licences

94. (1) A licence shall be in force for the period specified in the licence but not exceeding twelve months from the date of its issue or of any renewal of the licence.

(2) A licence may, on the application of the owner of a place of business subject to this Act and on payment of the prescribed fee be renewed from time to time.

(3) The Board may, in its discretion, refuse to renew a licence.

Permitted operations

95. The following operations shall be permissible without an application, provided that they are not used for the disposal of refuse;

- (a) firefighting and back-burning to control or suppress wildfires;
- (b) firefighting rehearsals or drills conducted by fire service agencies;

- (c) traditional and cultural burning of grasslands for purposes of farming; and
- (d) burning for purposes of protection of public health.

Board to order inspection

96. (1) The Board may, through an authorized officer, at any reasonable time carry out the inspection of —

- (a) a vehicle releasing visible exhaust emissions;
- (b) any waste incinerator or fuel burning equipment;
- (c) any source of air or noise pollution;
- (d) any processes generating emissions;
- (e) any market, store, dumpsite work or trade which due to its nature has the potential to attract pests, odour or other nuisance;
- (f) any place which is the subject of a complaint under this part.

(2) Where an inspection under this section indicates the owner or person in control of any work, trade machinery or vehicle has committed a breach of any conditions imposed on the license, the department shall suspend the license until such time the breach has been rectified.

(3) Where an inspection under this section indicates the owner or person in control of any work, trade machinery or vehicle has committed a breach of any conditions imposed on the license and such breach poses a danger to the public, the department shall depending on the seriousness of the danger posed to the public either—

- (a) cancel the license; or
- (b) suspend the license until such time the breach has been rectified and the danger to the public no longer exists.

(4) Any person who contravenes the provisions of this section commits an offence and shall on conviction be liable to a fine not exceeding two million shillings or to a term of imprisonment not exceeding two years.

(5) The Board may in addition to any penalty imposed under paragraph (4) demand the person repair any damage that may have occurred due to the breach committed under (3).

Derelict buildings

97. (1) Where an authorized officer is of the opinion that the continued use of a building or place of business in a particular manner constitutes a danger to the public, the authorized officer shall direct the licensee or his agent or employee in charge of the premises or place of business to take such action as the authorized officer thinks reasonably necessary to remedy the situation.

(2) If the licensee or person so directed under subsection (1) fails to take that action within the time allowed for that purpose by the authorized person, the authorized person shall, by notice in writing addressed to the licensee and served personally on the licensee or his agent or employee in charge of the place business, close those premises or place of business pending the decision of the department.

(3) The authorized officer shall immediately inform the department of his actions giving the reasons thereof

(4) The license in respect of premises or place of business closed under subsection (2) shall be deemed to have been suspended until the department has made a decision under subsection (5).

(5) The department shall, within seven days after being of the closure under subsection (3) consider whether the licence in respect of those premises should be reinstated, suspended, cancelled or varied and shall inform the licensee of its decision, in writing, within fourteen days.

(6) Any person aggrieved by the decision of the department to suspend, cancel or vary a license may appeal to the County Executive Committee Member.

PART X—ENFORCEMENT

Authorized officers

98. (1) The Executive Committee Member shall, appoint, any person or class of persons to be authorized officers for purposes of this Act.

(2) The Executive Committee Member shall issue a certificate of appointment to every person appointed under this section.

(3) Notwithstanding the provisions of this section, the following officers shall be deemed to be authorised officers for the purposes of this Act—

- (a) public health officers appointed under the Public Health Act ; and
- (b) officers appointed as enforcement officers in the County, under the National Police Service Act, Standards Act, Weights and Measures Act and Anti-counterfeit Act; or

- (c) any other person upon whom any written law vests functions of the maintenance of law and order.

Places authorized officers may enter

99. (1) For the purposes of ensuring compliance with this Act, an authorized officer may, at any reasonable time, enter any place in which the officer believes on reasonable grounds that any person or persons is in any way contravening the provisions of this Act.

(2) An authorized officer entering any premises under this section shall, if so required, produce for inspection by the person who is or appears to be in charge of the premises the certificate issued to them under this Act.

(3) Any person preventing or obstructing the entry of any officer or authorized officer under subsection (1) commits an offence.

(4) If an authorized officer under subsection (1) is satisfied that any premises or place of business is being used contrary to the provisions of this Act or of any rule, licence or permit issued under this Act, they shall give a notice in writing to the owner ordering that the situation be remedied within such period as is indicated in the notice.

(5) Pursuant to Article 24(2) of the Constitution, the right to privacy set out in Article 31 of the Constitution is limited to the extent specified in this section for the purpose of ensuring compliance with County regulations and controls, by ensuring fair and ethical business practices related to revenue administration as specified in this Act.

Powers of officers

100. In carrying out an inspection in any place pursuant to this Act, an authorised officer may —

- (a) examine anything referred to under this Act;
- (b) require any person in such place to produce for inspection, in the manner and form requested by the officer, the thing;
- (c) open or require any person in the place to open any place of abode, kennel, container or thing found in the place that the officer believes on reasonable grounds contains the thing;
- (d) conduct any test or analysis or take any measurements; or
- (e) require any person found in the place to produce for inspection or copying, any written or electronic information that is relevant to the administration or enforcement of this Act.

Use of records

101. In carrying out an inspection in a place, an authorized officer may—

- (a) use or cause to be used any computer system in the place to examine data contained in or available to the computer system that is relevant to the administration or enforcement of this Act;
- (b) reproduce the data in the form of a print-out or other intelligible output and take it for examination or copying;
- (c) use or cause to be used any copying equipment in the place to make copies of any data, record or document; and
- (d) scrutinize any other record system in use in that place.

Entry of dwelling place

102. An authorised officer may not enter a dwelling place except with the consent of the occupant or under the authority of a warrant issued under section 103.

Court to issue warrant

103. (1) Upon an ex-parte application, a magistrate or judge of the High Court, may issue a warrant authorizing the authorized officer named in the warrant to enter and inspect a dwelling place, subject to any conditions specified in the warrant, if the magistrate or judge is satisfied by information on oath that—

- (a) the dwelling place is a place referred to in section 102;
- (b) entry to the dwelling place is necessary for the administration or enforcement of this Act; and
- (c) the occupant does not consent to the entry, or that entry has been refused or there are reasonable grounds for believing that it will be refused.

(2) The time of such entry shall be between six o'clock in the forenoon and six o'clock in the afternoon of any day of the week.

Use of force

104. An authorized officer executing the warrant issued under section 103 shall not use force unless such officer is accompanied by a police officer and the use of force is specifically authorized in the warrant.

Inspection report

105. An authorised officer who carries out an inspection under this Act shall make a preliminary report immediately upon completion of the

inspection in a prescribed format, a copy of which shall be retained in the premises.

Offences by an Authorized Officer

106. An Authorized Officer of the County Government having a duty to perform under this Act who—

- (a) interferes with any process or person under this Act, so as to defeat the provisions, requirements or purposes of this Act;
- (b) where required under this Act to perform a function, or to give effect to the provisions of this Act, fails to perform such a function;
- (c) without reasonable cause omits to do something in breach of their duty under this Act;
- (d) willfully contravenes the provisions of this Act to give undue advantage or favor to another person; or
- (e) fails to prevent or report to the County Government or any other relevant authority, the commission of an offence committed under this Act.

Shall be guilty of an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding twelve months or both.

Assistance of officers

107. (1) The owner of a place inspected by an authorised officer under this Act or the person in charge of the place and every person found in the place shall —

- (a) provide all reasonable assistance to enable the authorised officer to carry out his duties under this Act; and
- (b) furnish the authorised officer with such information as the officer reasonably requires for the purpose for which entry into the place has been made.

(2) The inspecting agent in subsection (1) shall issue the respective inspection completion and certification certificate once satisfied with the inspection.

Obstruction

108. (1) No person shall obstruct or hinder, or knowingly make a false or misleading statement to an authorised officer who is carrying out duties under this Act.

(2) A person who contravenes sub-section (1) commits an offence.

Seizure

109. (1) During an inspection under this Act, an authorised officer may, in addition to the avenues provided in this Part, seize anything by means of which or in relation to which the officer believes, on reasonable grounds, that this Act has been contravened and a full inventory thereof shall be made at the time of such seizure by the officer.

(2) The authorised officer may direct that anything seized be kept or stored in the place where it was seized or that it be removed to another place—

- (a) unless authorised by an officer, no person shall remove, alter or interfere in any manner with any other thing seized;
- (b) any person from whom thing was seized may, within thirty days after the date of seizure, apply to the Court for an order of restoration, and shall send notice containing the prescribed information to the Executive Member within the prescribed time and in the prescribed manner;
- (c) the court may, upon production of the seized evidence for the purposes of proceedings before the court in relation of contravention of this Act, order for public destruction of the seized thing save for what is necessary as sample for use as the necessary evidence during the proceedings.

Order for restoration

110. (1) The Court may order that the confiscated goods or things be restored immediately to the applicant if, on hearing the application, the court is satisfied that—

- (a) the applicant is entitled to possession of the goods or thing seized; and
- (b) the thing seized is not and will not be required as evidence in any proceedings in respect of an offence under this Act.

(2) Where upon hearing an application made under subsection (1) the court is satisfied that the applicant is entitled to possession of the thing seized but is not satisfied with respect to the matters mentioned in paragraph (b) of subsection (1), the court may order that the goods or thing seized be restored to the applicant on the expiration of one hundred and eighty days from the date of seizure if no proceedings in respect of an offence under this Act have been commenced before that time.

Nature of offences

111. Offences under this Act, shall be cognizable offences.

Offences by partnership or bodies corporate

112. (1) Any act or omission which is an offence under this Act or any rules made hereunder shall, if done by a body corporate, be deemed to be an offence committed by every director, secretary or manager of the body corporate unless proved that the offence was committed without consent or connivance and that he exercised all such diligence to prevent the commission of the offence as they ought to have exercised having regard to the nature of their functions and the circumstances of the case.

(2) If an offence under this Act or any rules made hereunder is committed by a partner in a firm, every person who, at the time of the commission of the offence, was a partner in that firm, or was purporting to act in that office shall be deemed to have committed the offence unless there is proof that the offence was committed without their consent or connivance and that they exercised all such diligence to prevent the commission of the offence as they ought to have exercised having regard to the nature of their functions and the circumstances of the case.

(3) In any prosecution for an offence under this Act, it shall be sufficient proof of the offence to establish that the offence was committed by an employee or agent of the accused.

(4) Any act done or omitted to be done by an employee in contravention of any of the provisions of this Act shall be deemed also to be the act or omission of the employer, and any proceedings for an offence arising out of such act or omission may be taken against both the employer and the employee.

Nature of evidence in proceedings

113. (1) In any prosecution for an offence under this Act, a copy of any written or electronic information obtained during an inspection under this Act and certified to be a true copy thereof shall be admissible in evidence and shall, in the absence of evidence to the contrary, be proof of its contents.

(2) Subject to this Part, a certificate or report purporting to be signed by an officer stating that the officer analyzed anything to which this Act applies and stating the results of the analysis, shall be admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the certificate or report.

(3) The certificate or report may not be received in evidence unless the party intending to produce it has, before the trial, given the party against whom it is intended to be produced notice of not less than seven days of that intention together with a copy of the certificate or report.

(4) The party against whom the certificate or report provided for under subsection (3) is produced may, with leave of the court, require the attendance of the officer for purposes of cross examination.

(5) In a prosecution for a contravention of this Act—

- (a) information on an identification tag indicating that the thing is licensed is, in the absence of evidence to the contrary, proof that the thing is licensed; and
- (b) a name or address on an identification tag purporting to be the name or address of the person who owns the thing is, in the absence of evidence to the contrary, proof that the thing is owned by that person.

PART XI—MISCELLANEOUS PROVISIONS

Personal liability

114. No matter or thing done by an authorized officer, employee or agent of the Executive Committee Member shall, if the matter or thing is done in good faith while executing the functions, powers or duties under this Act, will not render the member, officer, employee or agent personally liable for any action, claim or demand whatsoever.

Prosecution of Matters under this Act

115. The County Government shall liase with the Office of the Director of Public Prosecution to provide special prosecutors to prosecute matters for and on behalf of the County Government under this Act.

General penalty

116. Where a person contravenes any provision of this Act where no specific penalty is provided, the person shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding five hundred thousand or imprisonment for term not exceeding two years or both.

Offences by authorized officer

117. An Authorized Officer of the County Government having a duty to perform under this Act who—

- (a) interferes with any other process or person under this Act, so as to defeat the provisions, requirements or purposes of this Act;
- (b) where required under this Act to do anything, or to give effect to the provisions of this Act, fails to do such thing;
- (c) without reasonable cause omits to do something in breach of their duty under this Act;

- (d) willfully contravenes the provisions of this Act to give undue advantage or favor to another person;
- (e) fails to prevent or report to the County Government or any other relevant authority, the commission of an offence committed under this Act;

Shall be guilty of an offence and is liable on conviction, to a fine not exceeding hundred thousand shillings or to imprisonment for a term of one year, or to both.

Savings

118. (1) For the avoidance of doubt, the national laws on matters relating to traffic shall apply within the county to the extent of the functions of the national government.

(2) Any licence or permit if in force before the commencement of this Act, shall be deemed to have continued in force, subject to subsection (3), on and after that date as if it were a license or permit granted under this Act, and any fees or charges payable to any local authority in respect of that permit shall be payable to the county government.

(3) The licence or permit referred to in subsection (2) shall continue to be in force —

- (a) for a period of 3 months from the date of commencement of this Act; or
- (b) where the holder of the licence or permit has applied for a trade license under this Act within that period, until the license is granted or refused, or the application is withdrawn, whichever occurs first.

Approved forms

119. The Board may approve forms for the better carrying out of the objects of this Act.

Regulations

120. (1) The Executive Committee Member may make Regulations for the better carrying out of the objects and purpose of this Act.

(2) Without prejudice to the generality of subsection (1), the Regulations may be made for the following purposes —

- (a) the payment of license fees, including additional fees for non-payment or late payment;
- (b) the exemption, waiver or reduction of license fees, if any;
- (c) prescribing fees for services;

- (d) prescribing forms;
- (e) publication and service of notices and other documents;
- (f) the transfer or assignment of trade licenses and different categories of trade licenses;
- (g) the procedure of application for tax waivers and where any payment of tax is due, the time within which waivers may be applied for;
- (h) the requirements with respect to documentation that may be required with the applications for tax waivers;
- (i) regulating the use of markets and market buildings;
- (j) prescribing, and regulating the pattern, description and use of, weighing or measuring instruments to be used by persons selling marketable commodities in any market;
- (k) preventing nuisances and obstructions in public markets, and for maintaining cleanliness therein and on the approaches thereto;
- (l) prescribing the goods that may be sold in any public market;
- (m) for fixing, regulating and collecting stallages or charges in any public market;
- (n) for the inspection and examination of marketable commodities sold or offered for sale in any market;
- (o) for maintaining order and preventing disturbances in a public market; and
- (p) for excluding or removing from public markets any person suffering from any infectious or contagious disease.

Revision

121. (1) The Executive Committee Member shall from time to time revise the—

- (a) licence, permits and cess charges;
- (b) outdoor advertising charges;
- (c) designated parking areas; and
- (d) charges for parking, clamping and towing.

(2) The Executive Committee Member shall issue thirty day notice for any revisions intended under subsection (1), in two daily newspapers of wide circulation within the County.

(3) After issuance of a notice provided under subsection (2), the Executive Committee Member shall gazette the intended revisions.

FIRST SCHEDULE

PART I

(Section 12)

APPROVED FORMS

PART I (A)

APPLICATION FORM

APPLICATION FOR THE GRANT / RENEWAL OF A TRADE LICENSE

1. Applicant's name and description of business, profession, trade or occupation to be conducted.
 2. Name under which business, profession, trade or occupation is or is to be carried on.
 3. If business is a partnership, give full names and addresses of all partners.
 4. Give any registration details of the business, profession, trade or occupation.
 5. Address at which the business, profession, trade or occupation is or
 6. List Postal address of the business, profession, trade or occupation, and email and telephone contacts.
 7. Provide a description of the premises including address to which the license is to apply.
 8. Is the applicant a resident of Kenya?
 9. Is the applicant an undischarged bankrupt?
 10. State the date on which it is desired to begin conducting the business, profession, trade or occupation* or the number of the previous license.
 11. Please provide the following additional information: [insert additional information required]
 12. Application fee is attached* or no application fee applies
- I, [...Name of Applicant...], hereby certify that the particulars given above herein are true and correct to the best of my knowledge and information.

DATED at [...Town...] this day of 20....

.....
Signature of applicant

PART I (B)

TRADE LICENSE

A trade license to conduct *[insert business, trade, profession or occupation to be conducted]* at the premises at *[insert location of the premises to which license applies]* is granted for the period starting on *[insert initial date of grant of the trade license]* and ending on 31st December *[insert year]* * or is renewed for the period from 1st January to 31st December *[insert year]*.

The holder of the license is *[insert name of person to whom the trade license is granted or for whom it is renewed]*.

The license is granted or renewed* subject to the Meru County Revenue Regulation and Control Act, 2018 and the rules made under the Act, and the conditions set out below:

[Insert conditions relating to the particular business, trade, profession or occupation to which the license relates]

Granted by the *Meru County* Chief Licensing Officer under the *Meru County Trade License Bill, 2018*

DATED at [...Town...] this day of 20...

.....

Signature

Chief licensing officer

****Delete if it does not apply***

PART II

POWERS OF AUTHORIZED OFFICERS

1. An authorized officer may—
 - (a) enter any premises for the purposes of—
 - (i) granting or renewing a trade license; or
 - (ii) finding out whether the holder of a trade license is complying with the conditions of the license, or this Act or the rules made under this Act;
 - (b) search the premises or any part of the premises;
 - (c) inspect or examine anything in or on the premises; seize anything that may afford evidence of the commission of an offence against this Act;
 - (d) take extracts from, and take copies of, any documents in or on the premises; take into or onto the premises such persons, equipment and materials as the authorized officer reasonably requires for the purpose of exercising any of the powers mentioned in paragraphs (a) to (c); and
 - (e) require the holder of the license, or any person in or on the premises, to give to the authorized officer reasonable assistance in relation to the exercise of any of the powers mentioned in paragraphs (a) to (c).

Limitations of powers of an Authorized Officer

2. An authorized officer shall not enter any premises unless—
 - (a) the owner or occupier of the premises consents to the entry; or
 - (b) the entry is made when the premises are open for the conduct of business or otherwise open for entry; or
 - (c) the authorized officer suspects on reasonable grounds that the holder of a trade license is not complying with the conditions of the trade license, or this Act or the rules made under this Act.

PART III

(Section 24)

GENERAL TRADE LICENSE FEES

S/No.	Item Description	Meru, Maua & Nkubu Towns (KSh.)	Other Sub- Counties (KSh.)
1.	Business Registration	2,000	1,000
2.	Business Renewal	500	200
3.	Subletting Fees	2,000	2,000
4.	Change of Business Location	2,000	2,000
5.	Change of Business Name	2,000	2,000
6.	Penalty for Late Renewal of Trade Licence	25% of the Trade Licence Fees	25 % of the Licence Fees
7.	Penalty for failure to Display the Trade Licence	1,000	1,000

SECOND SCHEDULE**(Section 47)****PART I—SCHEDULED PRODUCE**

1. Banana
2. Beans
3. Carrots
4. Cassava
5. Cereals
6. Coffee
7. Cucumber
8. Eggs
9. Fruits
10. Ground nuts
11. Log
12. Maize
13. Mangoes
14. Milk
15. Onions
16. Pawpaw
17. Peas
18. Potatoes
19. Processed fresh milk
20. Sugar cane
21. Sweet potatoes
22. Tea leaves
23. Timber
24. Tobacco
25. Tomatoes
26. Vegetables

THIRD SCHEDULE

PART I

(Section 66 and 68)

(1) Licenses for commercial activity

- (a) A license under section 66 shall not entitle the regular trader to carry out such activity unless, in relation to a specific open-air market, the regular trader has been given the authorization by the Board.
- (b) A regular trader shall not possess more than one authorization for a post in a market that operates in the same day and time.
- (c) A regular trader using a motor vehicle to carry on their commercial activity shall have premises available where to garage the motor vehicle and store their goods.
- (d) The address of the premises used for the purpose of applying for a license shall be clearly indicated on the application.
- (e) A regular trader shall notify the Board about any change in the vehicle or garage within ten working days after the change occurs.
- (f) No application shall be accepted and processed by the Board if the address of the garage or any other addresses for the store where goods are to be stored is not given.
- (g) The Board shall have the right to inspect such premises and to demand any documentation that proves the ownership of the premises when the application indicates the use of such premises by more than one licensee.
- (h) The Board may deny issuance of a license if it makes a conclusion that such premises is not used as a store or garage by the applicant.
- (i) The license issued by the Board shall indicate the regular trader either as a non-food license trader or as a food related items license trader.
- (j) In the case that the commercial activity concerns the selling of food items, prior approval by the county public health authorities must be obtained.

(2) Car boot sales

An application for a license under this Part shall contain the following information—

- (a) the name of the applicant;

- (b) the designated area where the car boot sale will be held; and
- (c) the date when the car boot sale will be held.

(3) Selling by Busking

A person who sells by busking shall be subject to the following conditions—

- (a) that an application by a busker who in any street, produces on site and sells a work of art on site, is filed on the appropriate form with the Board;
- (b) that the place where the busker stops to sell their goods is at least five meters of walking distance away from the entrance of any commercial premises;
- (c) for purpose of paragraph (b), a fixed kiosk is considered to be a commercial premises;
- (d) that no selling by busking can be performed in the precincts of any hotel or shopping complex if not written permission from the management;
- (e) that no objects are placed on the pavement; and
- (f) that no nuisance or inconvenience is caused to the neighbors or passersby in the?

PART II—PROHIBITED GOODS AND PRESCRIBED GOODS

(Section 71 and 72)

1. Prohibited goods include but are not limited to—

- (a) hides and skins;
- (b) live animals other than poultry and fish within stalls provided;
- (c) fresh meats and offal except within a market stall or shop licensed as a butcher's shop;
- (d) fresh fish except within a fish stall or shop licensed;
- (e) food which has been cooked or otherwise prepared for immediate consumption except within the licensed eating place;
- (f) all counterfeit or copied goods;
- (g) illegal drugs and alcohol;
- (h) home butchered meat, poultry;
- (i) wild game meat;
- (j) weaponry;

- (k) poison or other toxic substance; and
 - (l) quarantined crops and seeds.
2. Prescribed goods include but not limited to—
- (a) Dairy;
 - (b) Fish;
 - (c) plants and plant products;
 - (d) eggs;
 - (e) meat and meat products;
 - (f) grains;
 - (g) animal food;
 - (h) organic produce;
 - (i) fresh fruits and vegetables;
 - (j) dried fruits;
 - (k) pharmaceuticals (raw animal material);
 - (l) charcoal.
3. (a) A trader shall maintain with respect to the prescribed goods sold or offered for sale by the vendor the information and for the period prescribed by the Act.
- (b) Before a trader sells or offers for sale prescribed goods at a public market the trader shall provide to the operator of the public market the information required to be maintained pursuant to subsection (2).
- (c) A market operator shall not operate a public market at which prescribed goods are sold or offered for sale unless the information required to be maintained by a trader pursuant to this section has been provided to the operator.
- (d) A trader or market operator shall not falsify, obliterate or destroy the information required to be maintained pursuant to this schedule.

MEMORANDUM OF OBJECTS AND REASONS

The County Government of Meru seeks to regulate the various revenue administration measures within the purview of its powers and functions.

The principal objective of this Bill is to give effect to the Fourth Schedule of the Constitution, to provide for the general administration, collection of certain levies and fees, enforcement of the laws relating to revenue raising measures. Additionally, the Constitution requires the County Government to take legislative, administrative and measures to ensure that revenue raising measures adhere to the principles of financial management.

The Bill thus seeks to establish a legal framework to facilitate this process which will give effect to the Counties revenue administration and management measures.

The structure of the Bill is as follows:

Part I of the Bill provides for preliminary provisions including citation and interpretation of terms used in the Bill. The Part outlines the object and purpose of the Bill.

Part II provides for the functions and powers of the Board. To achieve this purpose, the Bill sets out additional administrative and enforcement provisions relating to revenue legislation.

Part III provides for matters relating to the grant and administration of trade licenses by the County Government to conduct businesses in the County in accordance with their powers and functions.

Part IV provides for matters relating to designated parking areas and charges for parking, clamping and towing.

Part V provides for matters relating to outdoor advertisements the offences, application and revocation of Permits, fees, expiration of Permits, cancellation of Permits, production of permits on request, removal of advertisements, limitation of this Act and general penalty.

Part VI to provide for the imposition of mining and agricultural produce Cess tax on any kind of agricultural crop produce within the County.

Part VII to provide for the regulation and administration of tax waivers and to give further effect to Article 210 of the Constitution.

Part VIII to provide for the promotion of industries, trade, market licensing and to provide for the regulation of trade, markets and industry.

Part IX to provide for provisions relating to public nuisance.

Part X to provide for measures to ensure compliance and enforcement of the county laws; and regulate the actions of the county enforcement officers, establish accountability mechanism and provide protection against liability arising out of lawful actions.

Part XI contains miscellaneous provisions such as the power of the executive member to make Regulations under the Act.

The enactment of this Bill shall occasion additional expenditure of public funds to be provided for in the estimates.

The Bill also provides for various Schedules in furtherance of the Bill.

Dated the 21st June, 2019.

DENNIS KIOKRA PETER,
For Chairperson, Sectoral Committee on Finance and ICT.